Herron. Applicant hereby respectfully traverses the foregoing rejections and submits that in view of the foregoing amendments, the following remarks, and the declaration of prior invention submitted herewith, the claims remaining in this application are all in full compliance with the requirements of 35 U.S.C. § 112, second paragraph, are free of the cited prior art, and/or are directed to an invention made prior to the effective date of the only art reference cited and applied by the examiner.

Regarding the rejection under 35 U.S.C. § 112, second paragraph, the claims in question have been amended to replace the terminology "generally" with the terminology "essentially." It is submitted that in the context of the invention, these words are essentially synonymous and are simply intended to convey the understanding that the surfaces are sufficiently planar and the axis is sufficiently perpendicular to the plane thereof that the disc-shaped elements may be rotated relatively about the axis while the surfaces remain in sufficient contact to inhibit leakage in a direction away from the axis. Accordingly, it is submitted that claims 7, 9, 11, 15, 19 and 20 are now in full compliance with the requirements of 35 U.S.C. § 112, second paragraph.

Claim 20 has been amended to include the word "essentially" as an adjective for the words "concentric." It is submitted that in the context of the disclosed invention, the word "essentially" is intended to cause this claim to be broad enough to cover structures where the circles are sufficiently 'concentric" to allow the ports and conduits to remain in fluid communicating registration as the elements are rotated relatively.

Turning now to the art rejection, the examiner's attention is directed to the appended declaration of the inventor Trung Van Nguyen. Thus, it can be seen that the invention of the present application was made prior to the effective filing date of the Herron patent. Accordingly, Herron is not prior art and the rejection of claims 1 through 5, 12, 13, 16 and 17 as being anticipated thereby is not supported by the record and should be withdrawn.

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In view of the foregoing amendment and remarks, and further in view of the appended declaration of prior invention, it is respectively submitted that the claims remaining in this application comply fully with the requirements of 35 U.S.C. § 112 and are free of any art cited by the examiner. Accordingly, this application should now be in condition for allowance and favorable action at an early date would be appreciated. If the examiner is of the view that any issue remains unresolved, it is respectfully suggested that applicants' undersigned attorney may be contacted by telephone at the number set forth below.

Respectfully submitted,

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MARKED-UP SET OF AMENDED CLAIMS:

7. (ONCE AMENDED) A fuel cell system as set forth in claim 6, wherein said elements are each disc-shaped, said surfaces are [generally] essentially planar, and said moveable element is rotatable about an axis which is [generally] essentially perpendicular to the plane of said surfaces.

9. (ONCE AMENDED) A fuel cell system as set forth in claim 8, wherein said elements are each disc-shaped, said surfaces are [generally] essentially planar, and said moveable element is rotatable about an axis which is [generally] essentially perpendicular to the plane of said surfaces.

11. (ONCE AMENDED) A fuel cell system as set forth in claim 10, wherein said elements are each disc-shaped, said surfaces are [generally] essentially planar, and said moveable element is rotatable about an axis which is [generally] essentially perpendicular to the plane of said surfaces.

15. (ONCE AMENDED) A fuel cell system as set forth in claim 14, wherein said elements are each disc-shaped, said surfaces are [generally] essentially planar, and said moveable element is rotatable about an axis which is [generally] essentially perpendicular to the plane of said surfaces.

19. (ONCE AMENDED) A fuel cell system as set forth in claim 18, wherein said elements are each disc-shaped, said surfaces are [generally] essentially planar, and said moveable element is rotatable about an axis which is [generally] essentially perpendicular to the plane of said surfaces.

20. (ONCE AMENDED) A fuel cell system as set forth in claim 19, wherein second ends of ports that are connected to fuel side product outlets and said one fuel side product collection conduit are arranged in a first circle that is essentially concentric with said axis and has a first diameter, and second ends of ports that are connected to oxidant side product outlets and said oxidant side product collection conduit are arranged in a second circle that is essentially concentric with said axis and has a second diameter that is different than said first diameter.